

January 30, 2012

VIA ECF

Hon. Joseph C. Spero
United States District Court
Northern District of California
Courtroom G - 15th Floor
450 Golden Gate Avenue
San Francisco, California 94102

Re: *Int'l Union of Operating Engineers v. The Bank of New York Mellon, Corp., et al.*, Case No. 3:11-CV-03620-WHA (JCS)

Dear Judge Spero,

The parties write jointly to request that the parties' previously scheduled in-person meet and confer, which took place at 4 p.m. EST on Friday, January 27, 2012 at the New York office of Paul, Weiss, Rifkind, Wharton & Garrison, LLP, satisfy Your Honor's order that "lead trial counsel for both parties shall meet and confer in person in Courtroom G." (Notice of Reference; Order to Meet and Confer and File a Joint Letter, dated January 26, 2012.)

On January 24, 2012, Plaintiff filed a letter with Judge Alsup outlining Plaintiff's discovery issues. That day, Judge Alsup referred discovery in this matter to a magistrate judge, yet to be selected. The next day, January 25, 2012, all discovery matters were referred to Your Honor. Pursuant to your Civil Standing Orders, in an effort to expedite consideration of the matters addressed in Plaintiff's letter, Plaintiff requested Defendants advise whether Defendants were available for an in-person meet and confer on January 26 or January 27, 2012. The parties agreed to meet and confer on Friday, January 27, 2012 at 4 p.m. EST at the New York office of Paul, Weiss.

Subsequent to this agreement between the parties, Your Honor ordered that "lead trial counsel for both parties [] meet and confer in person in Courtroom G [in the San Francisco Federal Courthouse]." The parties called the Courtroom Deputy Karen Hom, but were unable to speak with her about the scheduling and location of the meet and confer. The parties left Ms. Hom a voicemail explaining the situation.

The parties proceeded with the scheduled in-person meet and confer and discussed their respective positions. Pursuant to that conversation, the parties are prepared to submit a joint letter in accordance with those positions, pursuant to Your Honor's rules, on Friday, February 3, five business days from the meet and confer.

On Monday, January 30, Ms. Hom left a voicemail for Matthew Moses, an attorney for Defendants, asking the parties to submit a joint letter requesting that Your Honor

permit Friday's in-person meet and confer in New York to satisfy Your Honor's requirement that the parties meet and confer in person before submitting a joint letter on discovery matters.

Please let the parties know if the in-person meet and confer that took place on Friday, January 27 in New York will satisfy Your Honor's order. If not, the parties are prepared to meet and confer again in Courtroom G.

Respectfully submitted,

PAUL, WEISS, RIFKIND, WHARTON &
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/s/ Matthew J. Moses

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Co-Counsel for Plaintiff

IT IS HEREBY ORDERED THAT the in-person meet and confer that took place on Friday, January 27, 2012, in New York will satisfy the Court's Order entered on January 26, 2012 for now.

Dated: Feb. 1, 2012

